

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
CASE NO. 22-22707-CV-WILLIAMS

PAYCARGO FINANCE LP,

Plaintiff,

v.

ASPEN AMERICAN INSURANCE  
COMPANY, *et al.*,

Defendants.

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**ORDER**


**THIS MATTER** is before the Court on Magistrate Judge Eduardo I. Sanchez’s Report and Recommendation (DE 43) (“**Report**”) on Defendant Aspen American Insurance Company’s (“**Defendant**”) Motion to Dismiss (DE 15) (“**Motion**”). In the Report, Magistrate Judge Sanchez recommends that the Court deny Defendant’s Motion. (DE 43 at 1.) Judge Sanchez determined that Plaintiff plausibly alleges that Nominal Defendant Bay Maritimes Inc. (“**Bay Maritimes**”), the principal on the surety bond that Defendant issued, was the party acting as the Non-Vessel Operating Common Carrier (“**NVOCC**”) in the transportation-related freight shipment activities from which Plaintiff PayCargo Finance LP’s (“**Plaintiff**” or “**PCF**”) claims arose—“claims arising from Bay Maritimes’ non-payment for services that were provided by PCF to facilitate specific shipments of freight by Bay Maritimes as an NVOCC.” (*Id.* at 7.) Thus, Judge Sanchez concluded that, in accordance with the applicable pleading standards, Plaintiff states a claim for which relief can be granted and “the Complaint survives dismissal.” (*Id.*)

The Court carefully reviewed the Report,<sup>1</sup> the Parties' thoughtful and well-argued objections and response, the record, and applicable law, and the Court agrees with Judge Sanchez's well-reasoned analysis and conclusion that Defendant's Motion be denied.

Accordingly, it is **ORDERED AND ADJUDGED** as follows:

1. The Report (DE 43) is **AFFIRMED AND ADOPTED**.
2. Defendant's Motion (DE 15) is **DENIED**.
3. Defendant shall file its answer to the Complaint within **fourteen (14) days** of the date of this Order. See Fed. R. Civ. P. 12.

**DONE AND ORDERED** in Chambers in Miami, Florida, this 14th day of September, 2023.

  
KATHLEEN M. WILLIAMS  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> The Court conducted a de novo review of the portions of the Report to which Defendant objected.